

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

William Henry Green,)	C/A NO. 9:06-2641-CMC-GCK
)	
Plaintiff,)	
)	OPINION and ORDER
v.)	
)	
Eric Broxton, Hardeeville City Police)	
Officer in His Official Capacity and in His)	
Individual Capacity; and Hardeeville City)	
Police Department,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint filed pursuant to 42 U.S.C. §1983. Plaintiff contends that the Defendants used excessive force against him in the course of his arrest in violation of the Fourth Amendment. Plaintiff seeks monetary damages.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge George C. Kosko for pre-trial proceedings and a Report and Recommendation. On March 15, 2007, the Magistrate Judge issued a Report recommending that Defendant Broxton be dismissed from this action for failure to serve pursuant to Federal Rule of Civil Procedure 4(m). The Magistrate Judge also recommended that Defendant Hardeeville City Police Department be dismissed from this action without prejudice and that service of process not issue as to this defendant. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff has failed to file objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. This matter is dismissed without prejudice as to Defendant Broxton. Additionally, this matter is dismissed without prejudice and without issuance and service of process as to Defendant Hardeeville City Police Department. This matter is accordingly concluded and the Clerk shall close the file.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
April 24, 2007

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